THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24679 of 2001

Dated:24.08.2007

Between:

G.Bikshapathi, S/o.Late Gurge Bakkaiah,
and others.

…Petitioners

and

The Special Officer & Competent Authority,
Urban Land Ceilings, Hyderabad,
and another.

…Respondents

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ORDER:

The petitioners with their father, late Gurge Bakkaiah, constituted Hindu joint family, which owned lands in Survey Nos.8, 15 to 20/P situated at Peerjadiguda Village of Uppal Mandal in Ranga Reddy District. The second petitioner herein filed a declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), declaring the above land and claiming exemption from the urban land on two grounds: that the land is situated within peripheral area, therefore, it stands exempted under G.O.Ms.No.733, dated 31.10.1988, and secondly, that the petitioners are growing Para grass on the land, and therefore, the same cannot be treated as vacant land for the purpose of the Act. The first respondent by proceedings dated 30.09.1995 passed final orders under Section 8(4) read with Section 9 of the Act declaring the petitioners as holders of surplus vacant land. After that, the father, Bakkaiah, died. Therefore, the petitioners and their mother filed an appeal before the second respondent, being ULC Appeal No.Hyd/254/95. Before the appellate authority, they raised the plea that the land is being used as agricultural land, and therefore, the

provisions of the Act have no application. The plea was rejected by the second respondent while dismissing the appeal by impugned order dated 26.07.2001.

The Special Deputy Collector in the Office of the first respondent filed a counter affidavit. *Inter alia*, it is stated that the land owned by the petitioners is earmarked for agricultural purpose in the extended master plan, that the petitioners are not carrying on agricultural activity, and that they are growing Para grass. Reference is also made to the orders of the Government in G.O.Ms.No.4179, dated 04.09.1980, whereby and whereunder the Government exempted the land used for cultivating special kinds of grass such as Guinea grass, Napier grass, Para grass etc., under Section 20(1)(a) of the Act.

The appellate authority while dismissing the appeal observed that if the land is governed by G.O.Ms.No.4179, it is for them to approach the Government and seek exemption. In that view of the matter, this Court is of considered opinion that unless and until the petitioners obtained appropriate exemption, they cannot wriggle out of the situation. If so advised, they may approach the Government and seek exemption as per G.O.Ms.No.4179, dated 04.09.1980. Learned Counsel for the petitioners also admits that, that should be the correct procedure that the petitioners should adopt in the matter. The petitioners are given two weeks time to approach the Government seeking exemption. As and when such application is filed, the Government may pass appropriate orders within a period of eight weeks thereafter, and till then the respondents may not initiate further steps under the Act.

The Writ Petition is accordingly disposed of with the above observations. No costs.

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(V.V.S.RAO, J)

24.08.2007
vs